



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3607

Introduced 2/24/2009, by Rep. Greg Harris

#### SYNOPSIS AS INTRODUCED:

210 ILCS 9/20  
210 ILCS 9/35  
210 ILCS 9/55  
210 ILCS 9/65  
210 ILCS 9/75

Amends the Assisted Living and Shared Housing Act. Provides that the minimum standards for establishments shall include compliance with requirements of the federal Fair Housing Act and the Illinois Human Rights Act. Requires a finding of substantial compliance with the federal Fair Housing Act and the Illinois Human Rights Act for issuance of a license. Provides for denial of an application for a license and for suspension, revocation, or refusal to renew a license if an establishment is found by the United States Department of Housing and Urban Development, by a court of competent jurisdiction, or by the Illinois Human Rights Commission to be in violation of the federal Fair Housing Act or certain provisions of the Illinois Human Rights Act. Provides that an establishment may not refuse to permit a disabled person to make reasonable modifications to the dwelling unit occupied or to be occupied by the disabled person at the establishment if the disabled person makes those modifications at his or her own expense. Provides that an establishment may not refuse to make reasonable accommodations in its rules, policies, practices, or services when those accommodations may be necessary to afford a person equal opportunity to use and enjoy a dwelling unit at the establishment. Effective immediately.

LRB096 08867 DRJ 21542 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Assisted Living and Shared Housing Act is  
5 amended by changing Sections 20, 35, 55, 65, and 75 as follows:

6 (210 ILCS 9/20)

7 Sec. 20. Construction and operating standards. The  
8 Department, in consultation with the Advisory Board, shall  
9 prescribe minimum standards for establishments. These  
10 standards shall include:

11 (1) the location and construction of the  
12 establishment, including plumbing, heating, lighting,  
13 ventilation, and other physical conditions which shall  
14 ensure the health, safety, and comfort of residents and  
15 their protection from fire hazards; these standards shall  
16 include, at a minimum, compliance with the residential  
17 board and care occupancies chapter of the National Fire  
18 Protection Association's Life Safety Code, local and State  
19 building codes for the building type, ~~and~~ accessibility  
20 standards of the Americans with Disabilities Act, the  
21 requirements of the federal Fair Housing Act set forth at  
22 42 U.S.C. 3604(f)(3), and the requirements of subdivision  
23 (C)(3) of Section 3-102.1 of the Illinois Human Rights Act;

1           (2) the number and qualifications of all personnel  
2           having responsibility for any part of the services provided  
3           for residents;

4           (3) all sanitary conditions within the establishment  
5           and its surroundings, including water supply, sewage  
6           disposal, food handling, infection control, and general  
7           hygiene, which shall ensure the health and comfort of  
8           residents;

9           (4) a program for adequate maintenance of physical  
10          plant and equipment;

11          (5) adequate accommodations, staff, and services for  
12          the number and types of residents for whom the  
13          establishment is licensed;

14          (6) the development of evacuation and other  
15          appropriate safety plans for use during weather, health,  
16          fire, physical plant, environmental, and national defense  
17          emergencies; and

18          (7) the maintenance of minimum financial and other  
19          resources necessary to meet the standards established  
20          under this Section and to operate the establishment in  
21          accordance with this Act.

22          (Source: P.A. 91-656, eff. 1-1-01.)

23                 (210 ILCS 9/35)

24                 Sec. 35. Issuance of license.

25                 (a) Upon receipt and review of an application for a license

1 and review of the applicant establishment, the Director may  
2 issue a license if he or she finds:

3 (1) that the individual applicant, or the corporation,  
4 partnership, or other entity if the applicant is not an  
5 individual, is a person responsible and suitable to operate  
6 or to direct or participate in the operation of an  
7 establishment by virtue of financial capacity, appropriate  
8 business or professional experience, a record of lawful  
9 compliance with lawful orders of the Department and lack of  
10 revocation of a license issued under this Act or the  
11 Nursing Home Care Act during the previous 5 years;

12 (2) that the establishment is under the supervision of  
13 a full-time director who is at least 21 years of age and  
14 has a high school diploma or equivalent plus either:

15 (A) 2 years of management experience or 2 years of  
16 experience in positions of progressive responsibility  
17 in health care, housing with services, or adult day  
18 care or providing similar services to the elderly; or

19 (B) 2 years of management experience or 2 years of  
20 experience in positions of progressive responsibility  
21 in hospitality and training in health care and housing  
22 with services management as defined by rule;

23 (3) that the establishment has staff sufficient in  
24 number with qualifications, adequate skills, education,  
25 and experience to meet the 24 hour scheduled and  
26 unscheduled needs of residents and who participate in

1 ongoing training to serve the resident population;

2 (4) that all employees who are subject to the Health  
3 Care Worker Background Check Act meet the requirements of  
4 that Act;

5 (5) that the applicant is in substantial compliance  
6 with this Act, the federal Fair Housing Act (42 U.S.C. 3601  
7 and following), Sections 3-101 through 3-106 and Section  
8 6-101 of the Illinois Human Rights Act, and such other  
9 requirements for a license as the Department by rule may  
10 establish under this Act;

11 (6) that the applicant pays all required fees;

12 (7) that the applicant has provided to the Department  
13 an accurate disclosure document in accordance with the  
14 Alzheimer's Special Care Disclosure Act and in substantial  
15 compliance with Section 150 of this Act.

16 In addition to any other requirements set forth in this  
17 Act, as a condition of licensure under this Act, the director  
18 of an establishment must participate in at least 20 hours of  
19 training every 2 years to assist him or her in better meeting  
20 the needs of the residents of the establishment and managing  
21 the operation of the establishment.

22 Any license issued by the Director shall state the physical  
23 location of the establishment, the date the license was issued,  
24 and the expiration date. All licenses shall be valid for one  
25 year, except as provided in Sections 40 and 45. Each license  
26 shall be issued only for the premises and persons named in the

1 application, and shall not be transferable or assignable.

2 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
3 95-628, eff. 9-25-07; 95-876, eff. 8-21-08.)

4 (210 ILCS 9/55)

5 Sec. 55. Grounds for denial of a license. An application  
6 for a license may be denied for any of the following reasons:

7 (1) failure to meet any of the standards set forth in  
8 this Act or by rules adopted by the Department under this  
9 Act;

10 (2) conviction of the applicant, or if the applicant is  
11 a firm, partnership, or association, of any of its members,  
12 or if a corporation, the conviction of the corporation or  
13 any of its officers or stockholders, or of the person  
14 designated to manage or supervise the establishment, of a  
15 felony or of 2 or more misdemeanors involving moral  
16 turpitude during the previous 5 years as shown by a  
17 certified copy of the record of the court of conviction;

18 (3) personnel insufficient in number or unqualified by  
19 training or experience to properly care for the residents;

20 (4) insufficient financial or other resources to  
21 operate and conduct the establishment in accordance with  
22 standards adopted by the Department under this Act;

23 (5) revocation of a license during the previous 5  
24 years, if such prior license was issued to the individual  
25 applicant, a controlling owner or controlling combination

1 of owners of the applicant; or any affiliate of the  
2 individual applicant or controlling owner of the applicant  
3 and such individual applicant, controlling owner of the  
4 applicant or affiliate of the applicant was a controlling  
5 owner of the prior license; provided, however, that the  
6 denial of an application for a license pursuant to this  
7 Section must be supported by evidence that the prior  
8 revocation renders the applicant unqualified or incapable  
9 of meeting or maintaining an establishment in accordance  
10 with the standards and rules adopted by the Department  
11 under this Act; or

12 (6) the establishment is not under the direct  
13 supervision of a full-time director, as defined by rule.

14 The Department shall deny an application for a license if  
15 an establishment is found by the United States Department of  
16 Housing and Urban Development, by a court of competent  
17 jurisdiction, or by the Illinois Human Rights Commission to be  
18 in violation of the federal Fair Housing Act (42 U.S.C. 3601  
19 and following) or Sections 3-101 through 3-106 and Section  
20 6-101 of the Illinois Human Rights Act. The Department may not  
21 issue a license to such an establishment until the  
22 establishment has complied with all relief ordered by the  
23 United States Department of Housing and Urban Development, a  
24 court of competent jurisdiction, or the Illinois Human Rights  
25 Commission and has remedied the violation.

26 The Department shall deny an application for a license if 6

1 months after submitting its initial application the applicant  
2 has not provided the Department with all of the information  
3 required for review and approval or the applicant is not  
4 actively pursuing the processing of its application. In  
5 addition, the Department shall determine whether the applicant  
6 has violated any provision of the Nursing Home Care Act.

7 (Source: P.A. 93-1003, eff. 8-23-04.)

8 (210 ILCS 9/65)

9 Sec. 65. Revocation, suspension, or refusal to renew  
10 license.

11 (a) The Department, after notice to the applicant or  
12 licensee, may suspend, revoke, or refuse to renew a license in  
13 any case in which the Department finds any of the following:

14 (1) that there has been a substantial failure to comply  
15 with this Act or the rules promulgated by the Department  
16 under this Act or with the federal Fair Housing Act (42  
17 U.S.C. 3601 and following) or Sections 3-101 through 3-106  
18 and Section 6-101 of the Illinois Human Rights Act;

19 (2) that there has been a conviction of the licensee,  
20 or of the person designated to manage or supervise the  
21 establishment, of a felony or of 2 or more misdemeanors  
22 involving moral turpitude during the previous 5 years as  
23 shown by a certified copy of the record of the court of  
24 conviction;

25 (3) that the personnel is insufficient in number or

1 unqualified by training or experience to properly care for  
2 the number and type of residents served by the  
3 establishment;

4 (4) that the financial or other resources are  
5 insufficient to conduct and operate the establishment in  
6 accordance with standards promulgated by the Department  
7 under this Act; or

8 (5) that the establishment is not under the direct  
9 supervision of a full-time director, as defined by rule.

10 The Department shall suspend, revoke, or refuse to renew a  
11 license if an establishment is found by the United States  
12 Department of Housing and Urban Development, by a court of  
13 competent jurisdiction, or by the Illinois Human Rights  
14 Commission to be in violation of the federal Fair Housing Act  
15 (42 U.S.C. 3601 and following) or Sections 3-101 through 3-106  
16 and Section 6-101 of the Illinois Human Rights Act. The  
17 Department may not restore or renew a license to such an  
18 establishment until the establishment has complied with all  
19 relief ordered by the United States Department of Housing and  
20 Urban Development, a court of competent jurisdiction, or the  
21 Illinois Human Rights Commission and has remedied the  
22 violation.

23 (b) Notice under this Section shall include a clear and  
24 concise statement of the violations on which the nonrenewal or  
25 revocation is based, the statute or rule violated, and notice  
26 of the opportunity for a hearing under Section 60.

1           (c) If an establishment desires to contest the nonrenewal  
2 or revocation of a license, the establishment shall, within 10  
3 days after receipt of notice under subsection (b) of this  
4 Section, notify the Department in writing of its request for a  
5 hearing under Section 60. Upon receipt of the request the  
6 Department shall send notice to the establishment and hold a  
7 hearing as provided under Section 60.

8           (d) The effective date of nonrenewal or revocation of a  
9 license by the Department shall be any of the following:

10           (1) until otherwise ordered by the circuit court,  
11 revocation is effective on the date set by the Department  
12 in the notice of revocation, or upon final action after  
13 hearing under Section 60, whichever is later;

14           (2) until otherwise ordered by the circuit court,  
15 nonrenewal is effective on the date of expiration of any  
16 existing license, or upon final action after hearing under  
17 Section 60, whichever is later; however, a license shall  
18 not be deemed to have expired if the Department fails to  
19 timely respond to a timely request for renewal under this  
20 Act or for a hearing to contest nonrenewal; or

21           (3) the Department may extend the effective date of  
22 license revocation or expiration in any case in order to  
23 permit orderly removal and relocation of residents.

24           (e) The Department may refuse to issue or may suspend the  
25 license of any person who fails to file a return, or to pay the  
26 tax, penalty or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty or interest, as required by  
2 any tax Act administered by the Illinois Department of Revenue,  
3 until such time as the requirements of any such tax Act are  
4 satisfied.

5 (Source: P.A. 91-656, eff. 1-1-01.)

6 (210 ILCS 9/75)

7 Sec. 75. Residency Requirements.

8 (a) No individual shall be accepted for residency or remain  
9 in residence if the establishment cannot provide or secure  
10 appropriate services, if the individual requires a level of  
11 service or type of service for which the establishment is not  
12 licensed or which the establishment does not provide, or if the  
13 establishment does not have the staff appropriate in numbers  
14 and with appropriate skill to provide such services.

15 (b) Only adults may be accepted for residency.

16 (c) A person shall not be accepted for residency if:

17 (1) the person poses a serious threat to himself or  
18 herself or to others;

19 (2) the person is not able to communicate his or her  
20 needs and no resident representative residing in the  
21 establishment, and with a prior relationship to the person,  
22 has been appointed to direct the provision of services;

23 (3) the person requires total assistance with 2 or more  
24 activities of daily living;

25 (4) the person requires the assistance of more than one

1 paid caregiver at any given time with an activity of daily  
2 living;

3 (5) the person requires more than minimal assistance in  
4 moving to a safe area in an emergency;

5 (6) the person has a severe mental illness, which for  
6 the purposes of this Section means a condition that is  
7 characterized by the presence of a major mental disorder as  
8 classified in the Diagnostic and Statistical Manual of  
9 Mental Disorders, Fourth Edition (DSM-IV) (American  
10 Psychiatric Association, 1994), where the individual is  
11 substantially disabled due to mental illness in the areas  
12 of self-maintenance, social functioning, activities of  
13 community living and work skills, and the disability  
14 specified is expected to be present for a period of not  
15 less than one year, but does not mean Alzheimer's disease  
16 and other forms of dementia based on organic or physical  
17 disorders;

18 (7) the person requires intravenous therapy or  
19 intravenous feedings unless self-administered or  
20 administered by a qualified, licensed health care  
21 professional;

22 (8) the person requires gastrostomy feedings unless  
23 self-administered or administered by a licensed health  
24 care professional;

25 (9) the person requires insertion, sterile irrigation,  
26 and replacement of catheter, except for routine

1 maintenance of urinary catheters, unless the catheter care  
2 is self-administered or administered by a licensed health  
3 care professional;

4 (10) the person requires sterile wound care unless care  
5 is self-administered or administered by a licensed health  
6 care professional;

7 (11) the person requires sliding scale insulin  
8 administration unless self-performed or administered by a  
9 licensed health care professional;

10 (12) the person is a diabetic requiring routine insulin  
11 injections unless the injections are self-administered or  
12 administered by a licensed health care professional;

13 (13) the person requires treatment of stage 3 or stage  
14 4 decubitus ulcers or exfoliative dermatitis;

15 (14) the person requires 5 or more skilled nursing  
16 visits per week for conditions other than those listed in  
17 items (13) and (15) of this subsection for a period of 3  
18 consecutive weeks or more except when the course of  
19 treatment is expected to extend beyond a 3 week period for  
20 rehabilitative purposes and is certified as temporary by a  
21 physician; or

22 (15) other reasons prescribed by the Department by  
23 rule.

24 (d) A resident with a condition listed in items (1) through  
25 (15) of subsection (c) shall have his or her residency  
26 terminated, except as provided in subsection (j).

1           (e) Residency shall be terminated when services available  
2 to the resident in the establishment are no longer adequate to  
3 meet the needs of the resident. This provision shall not be  
4 interpreted as limiting the authority of the Department to  
5 require the residency termination of individuals.

6           (f) Subsection (d) of this Section shall not apply to  
7 terminally ill residents who receive or would qualify for  
8 hospice care and such care is coordinated by a hospice program  
9 licensed under the Hospice Program Licensing Act or other  
10 licensed health care professional employed by a licensed home  
11 health agency and the establishment and all parties agree to  
12 the continued residency.

13           (g) Items (3), (4), (5), and (9) of subsection (c) shall  
14 not apply to a quadriplegic, paraplegic, or individual with  
15 neuro-muscular diseases, such as muscular dystrophy and  
16 multiple sclerosis, or other chronic diseases and conditions as  
17 defined by rule if the individual is able to communicate his or  
18 her needs and does not require assistance with complex medical  
19 problems, and the establishment is able to accommodate the  
20 individual's needs. The Department shall prescribe rules  
21 pursuant to this Section that address special safety and  
22 service needs of these individuals.

23           (h) For the purposes of items (7) through (10) of  
24 subsection (c), a licensed health care professional may not be  
25 employed by the owner or operator of the establishment, its  
26 parent entity, or any other entity with ownership common to

1 either the owner or operator of the establishment or parent  
2 entity, including but not limited to an affiliate of the owner  
3 or operator of the establishment. Nothing in this Section is  
4 meant to limit a resident's right to choose his or her health  
5 care provider.

6 (i) Subsection (h) is not applicable to residents admitted  
7 to an assisted living establishment under a life care contract  
8 as defined in the Life Care Facilities Act if the life care  
9 facility has both an assisted living establishment and a  
10 skilled nursing facility. A licensed health care professional  
11 providing health-related or supportive services at a life care  
12 assisted living or shared housing establishment must be  
13 employed by an entity licensed by the Department under the  
14 Nursing Home Care Act or the Home Health, Home Services, and  
15 Home Nursing Agency Licensing Act.

16 (j) Notwithstanding any other provision of this Section, an  
17 establishment may not refuse to permit a disabled person to  
18 make reasonable modifications to the dwelling unit occupied or  
19 to be occupied by the disabled person at the establishment, as  
20 required by the federal Fair Housing Act as set forth at 42  
21 U.S.C. 3604(f)(3)(A) or by subdivision (C)(1) of Section  
22 3-102.1 of the Illinois Human Rights Act, if the disabled  
23 person makes those modifications at his or her own expense. An  
24 establishment may not refuse to make reasonable accommodations  
25 in its rules, policies, practices, or services when those  
26 accommodations may be necessary to afford a person equal

1 opportunity to use and enjoy a dwelling unit at the  
2 establishment, as required by the federal Fair Housing Act as  
3 set forth at 42 U.S.C. 3604(f)(3)(B) or by subdivision (C)(2)  
4 of Section 3-102.1 of the Illinois Human Rights Act.

5 (Source: P.A. 94-256, eff. 7-19-05; 94-570, eff. 8-12-05;  
6 95-216, eff. 8-16-07; 95-331, eff. 8-21-07.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.